

Exhibit A

COPY

THE STATE OF TEXAS
COUNTY OF ELLIS
CAUSE NO: 96396
CITATION

TO: CAPIO PARTNERS, LLC
REG AGENT:CT CORPORATION SYSTEM
1999 BRYANT ST, SUITE 900
DALLAS, TX 75201

Defendant, in the hereinafter styled and numbered cause: 96396

You are hereby commanded to appear before 40TH JUDICIAL DISTRICT COURT of ELLIS COUNTY, TEXAS to be held at the courthouse of said county in the City of Waxahachie, County of Ellis County, Texas, by filing a written answer to the petition of Plaintiff at or before 10:00 A.M. of the Monday next after the expiration of 20 days after the date of service hereof, a copy of which accompanies this citation, in cause number 96396 styled

GARCIA,JR., ISRAEL
-VS-
CAPIO PARTNERS, LLC

Filed in said court on the 06/26/2017

The name and address of the attorney for plaintiff, or the address of the plaintiff is: GARCIA,JR., ISRAEL, 115 EVENING STAR CIRCLE, RED OAK, TX 75154.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorneys do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of 20 days after you were served this citation and petition, a Default Judgment may be taken against you."

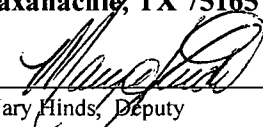
WITNESS: Melanie Reed, District Clerk of the District Court of Ellis County, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT COUNTY OF ELLIS, TEXAS, ON THIS THE 29th day of June, 2017.

SEAL

Melanie Reed, District Clerk
109 S. Jackson Street Rm. 209
Waxahachie, TX 75165

By


Mary Hinds, Deputy

GARCIA, JR., ISRAEL
-VS-
CAPIO PARTNERS, LLC

IN THE 40TH JUDICIAL DISTRICT COURT
OF
ELLIS COUNTY, TEXAS

NAME AND ADDRESS FOR SERVICE:

CAPIO PARTNERS, LLC
REG AGENT: CT CORPORATION SYSTEM
1999 BRYANT ST, SUITE 900
DALLAS, TX 75201

Came to hand on the _____ day of _____, 20____, at _____, o'clock ____m., and executed in _____ County, Texas by delivering to each of the within named defendants, in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the ORIGINAL PETITION, at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
_____	_____	_____

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

FEES:

Serving Petition and Copy \$ _____
Total \$ _____

_____, Officer

_____, County, Texas

By: _____, Deputy

_____, Affiant

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____, and my address is _____
(First, Middle, Last)

(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of _____.

Declarant/Authorized Process Server

(Id # & expiration of certification)

RETURN TO:

Melanie Reed Ellis County District Clerk
109 S. Jackson Street Rm. 209
Waxahachie, TX 75165

STATE OF TEXAS §

COUNTY OF ELLIS §

SIGNED under oath before me on this _____ day of _____, 20____.

Notary Public, State of Texas

 COPY

CAUSE NO. 96396

ISRAEL GARCIA JR.

Plaintiff

v.

CAPIO PARTNERS, LLC

Defendant

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IN THE DISTRICT COURT

40th
~~44th~~ JUDICIAL DISTRICT

ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiff Israel Garcia Jr. brings this complaint against Capio Partners, LLC and states as follows:

NATURE OF ACTION

1. This is an action for damages brought by an individual against Capio Partners, LLC for violations of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227 *et. seq.*
2. Plaintiff alleges that Defendant called his prepaid cellular telephone number using an automatic telephone dialing system as defined by the Telephone Consumer Protection Act, 47 U.S.C. §227 *et. seq.* and or used an artificial or prerecorded voice without his express consent to do so.
3. Defendant was informed on several occasions not to call Plaintiff's cellular telephone and was therefore aware that it had no prior express or implied consent to call his cellular telephone.
4. Plaintiff alleges that the Defendant has acted voluntarily, intentionally and under its own free will in placing the calls to his cellular telephone.

DISCOVERY CONTROL PLAN

5. Pursuant to Rule 190.2 of the Texas Rules of Civil Procedure the discovery shall be conducted under level 1.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter because the amount in controversy exceeds the minimum jurisdictional limit of this Court. Jurisdiction of this Court arises under 47 U.S.C. §227(b)(3).
7. Venue is proper pursuant to 28 U.S.C. §1391(b), where the acts and transactions giving rise to Plaintiff's action occurred in this district, where Plaintiff resides in this district, and/or where Defendant transacts business in this district.

PARTIES

8. The Plaintiff in this lawsuit is Israel Garcia Jr., a natural person and a resident of Ellis County, Texas.
9. The Defendant in this lawsuit is Capiro Partners, LLC (Capiro) is a company with its principal office at 2222 Texoma Pkwy Ste 150 Sherman, TX 75090.
10. Capiro may be served through its registered agent CT Corporation System 1999 Bryant St., Ste. 900 Dallas, TX 75201.

FACTUAL ALLEGATIONS

11. On or about May 10, 2016, Capiro began calling the Plaintiff's prepaid cell phone number that ends with 5589 from telephone numbers (404) 496-5324, (404) 963-0841, (404) 631-6991, and (404) 382-5621 which are numbers known to be used by Capiro in its debt collection operations.
12. Capiro called Plaintiff's prepaid cell phone number which ends with 5589 total of 22 times on the following dates and times:

1. May 10, 2016 at 5:09 PM
2. May 11, 2016 at 12:19 PM
3. May 13, 2016 at 10:41 AM
4. May 17, 2016 at 12:27 PM
5. May 18, 2016 at 9:25 AM
6. May 19, 2016 at 3:29 PM
7. May 20, 2016 at 12:26 PM
8. May 23, 2016 at 4:34 PM
9. May 25, 2016 at 9:31 AM
10. May 26, 2016 at 3:47 PM
11. May 27, 2016 at 11:21 AM
12. June 10, 2016 at 2:59 PM
13. June 13, 2016 at 4:26 PM
14. June 24, 2016 at 11:01 AM
15. June 28, 2016 at 11:59 AM
16. June 29, 2016 at 9:18 AM
17. July 13, 2016 at 11:54 AM
18. July 14, 2016 at 10:56 AM
19. July 18, 2016 at 6:50 PM
20. August 5, 2016 at 8:47 AM
21. August 15, 2016 at 8:22 AM
22. August 22, 2016 at 5:58 PM

13. Plaintiff answered several calls from the defendant and stated, “stop calling this number” but there was silence and no live person spoke. The call was then disconnected by the caller. The calls that Plaintiff answered occurred on the following dates and times:

- a. May 13, 2016 at 10:41 AM (duration of the call 4 seconds)
- b. May 17, 2016 at 12:27 PM (duration of the call 3 seconds)
- c. May 18, 2016 at 9:25 AM (duration of the call 4 seconds)
- d. May 19, 2016 at 3:29 PM (duration of the call 3 seconds)
- e. May 20, 2016 at 12:26 PM (duration of the call 3 seconds)
- f. May 23, 2016 at 4:34 PM (duration of the call 3 seconds)
- g. May 25, 2016 at 9:31 AM (duration of the call 3 seconds)
- h. May 26, 2016 at 3:47 PM (duration of the call 2 seconds)
- i. May 27, 2016 at 11:21 AM (duration of the call 3 seconds)
- j. June 10, 2016 at 2:59 PM (duration of the call 3 seconds)
- k. June 13, 2016 at 4:26 PM (duration of the call 7 seconds)
- l. June 24, 2016 at 11:01 AM (duration of the call 3 seconds)
- m. June 28, 2016 at 11:59 AM (duration of the call 3 seconds)

14. Plaintiff answered two more calls from the Defendant on August 5, 2016 at 8:47 AM (duration of the call 13 seconds) and August 15, 2016 at 8:22 AM (duration of the call 18 seconds) and

waited a considerable period of time, but there was no live person who spoke and out of annoyance and frustration Plaintiff terminated the call.

15. Plaintiff took photos of the display of his phone after each call that Defendant made to his cell phone.
16. Plaintiff made handwritten notes of the details of each call at or near the time of the call that include, but are not limited to, the date and time of the call and what was said by either party if anything.
17. At the times that all of the above-identified calls were received on his wireless phone Plaintiff was the subscriber to the called number, was the sole person having custody and control of the phone and paid for the airtime for the called number.
18. In making each call Capio used equipment with the capacity to store numbers and automatically dial Plaintiff's cell phone. There was never a live person on the line when the calls were answered and the caller terminated the call.
19. Upon information and belief, the calls identified above were placed to Plaintiff's wireless phone number using an automatic telephone dialing system (ATDS) that had the capacity to store numbers.
20. Upon information and belief, Defendant intended to use an automatic telephone dialing system to place each of the telephone calls identified above.
21. Upon information and belief, Defendant had knowledge that it was using an automatic telephone dialing system to place each of the telephone calls identified above.
22. Upon information and belief, Defendant placed the telephone calls to Plaintiff identified above voluntarily.

23. Upon information and belief, Defendant placed the telephone calls to Plaintiff identified above under its own free will.
24. At no time has the Plaintiff given his express consent, written or otherwise, to Capiro to call his cellular telephone number that ends with 5589.
25. All calls made to Plaintiff's cell phone were for a non-emergency purpose.
26. Plaintiff has no prior or present established relationship with Capiro.
27. Plaintiff has never heard of the Defendant prior to these phone calls.
28. Plaintiff has sustained concrete and particularized injuries in several ways:
 - a. His phone was tied up by these unwanted calls and unavailable for his own use.
 - b. His privacy was invaded.
 - c. Repeated unwanted and illegal calls caused him frustration and annoyance.
 - d. He incurred actual damages in the form of airtime used in answering the calls as well as the cost of electricity used and wear and tear on his phone as a result of the calls.
29. On April 24, 2017, Plaintiff sent a Notice of Intent to Sue to Capiro regarding the violations alleged herein. Plaintiff, in doing so, was making an attempt to mitigate damages prior to litigation. Capiro failed to respond.
30. All violations complained of herein occurred within the statute of limitations of 47 U.S.C. § 227.

COUNT I

VIOLATIONS OF THE TCPA 47 U.S.C. § 227(b)(1)(A)(iii)

31. Plaintiff repeats and re-alleges each and every allegation stated above.

Defendant's aforementioned conduct violated the TCPA, 47 U.S.C. § 227 *et seq.*

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated the TCPA 47 U.S.C. § 227 *et seq.*

- b) Awarding Plaintiff statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B)(C) of \$500 for the first call and \$1500 for each call thereafter made to Plaintiff's wireless phone as knowing and/or willful violations;
- c) Awarding Plaintiff all costs incurred in this action;
- d) Awarding Plaintiff any post-judgment interest as may be allowed under the law;
- e) Awarding such other and further relief as the Court may deem just and proper

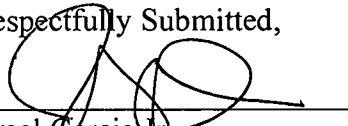
REQUEST FOR A RECORD

32.. Pursuant to Texas Government Code section 52.046, the Plaintiff hereby requests that an official court recorder attend and make full record of all hearings in this case.

DEMAND FOR TRIAL BY JURY

Plaintiff is entitled to and hereby demands a trial by jury.

Respectfully Submitted,



Israel Garcia Jr.
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Red Oak, Texas 75154
972-816-6374
igarcia75115@yahoo.com